

OFFICIAL GAZETTE



GOVERNMENT OF GOA

Note: There is one Extraordinary issue to the Official Gazette, Series I No. 37 dated 11-12-1997 namely, Extraordinary dated 15-12-1997 from pages 649 to 650 regarding Notification from Department of Social Welfare.

GOVERNMENT OF GOA Department of Legislative Affairs

LA/B/3211/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 10-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1997.

The Goa Tax on Infrastructure (Amendment) Bill, 1997

(Bill No. 33 of 1997)

A

BILL

to amend the Goa Tax on Infrastructure Act, 1997.

BE it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:

1. *Short title and commencement.*— (1) This Act may be called the Goa Tax on Infrastructure (Amendment) Act, 1997.

(2) It shall come into force at once.

2. *Amendment of section 2.*— In section 2 of the Goa Tax on Infrastructure Act, 1997 (Goa Act 12 of 1997) (hereinafter called the "principal Act"),—

(i) clause (1) shall be omitted;

(ii) for clause (6), the following shall be substituted, namely:—

"(6) "multi-dwelling building" includes any building consisting either of a single self contained unit having built up area of more than 100 sq. mts., or more than one independent unit used for domestic, commercial or office premises but does not include building constructed for educational institutions, industrial enterprises or by any other non-profitable organisations."

3. *Amendment of section 3.*— For section 3 of the principal Act, the following shall be substituted, namely:—

"3. <i>Tax on infrastructure.</i> — Any person who has constructed a multi-dwelling building in respect of which the construction licence has been issued on or after 8-4-1997 shall, before grant of permission for occupation of such building or part thereof, be liable to pay a tax at the rate of three per cent of the cost of construction of such building as infrastructure tax.	3.23	rupees thirty
part thereof, be liable to pay a tax at the rate of three per cent of the cost of construction of such building as infrastructure tax.	0.80	rupees thirty
	62.70	100.39

or the principal Act shall

Statement of Objects and Reasons

In terms of section 3 of the Goa Tax on Infrastructure Act, 1997 (Act 12 of 1997), on and from the date of coming into force of said Act, 1997, a person who has constructed a multi-dwelling building shall, before grant of permission for occupation or use of such building or part thereof, be liable to pay a tax at the rate of three per cent of the cost of construction of such building as infrastructure tax. Further, the Act, 1997, seeks to tax only those multi-dwelling buildings consisting of four or more independent units meant for accommodating not less than four families.

Now, in order to widen the tax base, all dwelling units which have more than one dwelling unit and exceeding floor area of 100 sq. mts., and which are not built by educational and charitable Institutions or industrial enterprises are proposed to be brought into the tax net. It is also proposed to modify the rate of taxation by fixing uniform rate per sq. mt. of floor area instead of collecting as a proportion of the cost of construction. The tax is proposed to be levied with effect from 8-4-1997 only from those units for which the construction licenses have been issued on or after that date:

This Bill seeks to achieve the above objects by suitably amending sections 2 and 3 of the said Act, 1997.

Financial Memorandum

The Act is being implemented through certain Officers by delegating the powers to collect the tax. As no special machinery is appointed for this purpose, no financial expenditure is involved while implementing the Act.

Panaji,
4th December, 1997

PRATAPSINGH RANE
Chief Minister

Assembly Hall,
Panaji,
7th December, 1997.

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa.

(Annexure to Bill No. 33 of 1997)

The Goa Tax on Infrastructure (Amendment) Bill, 1997

The Goa Tax on Infrastructure Act, 1997

(Goa Act 12 of 1997)

2. Definitions.— In this Act, unless the context otherwise requires,—

(1) “Administrative Tribunal” means the Administrative Tribunal constituted under the Goa Administrative Tribunal Act, 1965 (Act No. 6 of 1965);

(2) “competent authority” means such authority or officer of the Government, as the Government may, by Notification in the Official Gazette, specify;

(3) “government” means the Government of Goa;

(4) “local authority” means a Municipal Council constituted under the Goa Municipalities Act, 1968 (Act No. 7 of 1969) or a Panachayat constituted under the Panchayat Raj Act, 1994 (Act No. 14 of 1994);

(5) “infra-structure” means infrastructure, including electricity, and other areas;

(6) “multi-dwelling building” means a building containing two or more independent units meant for accommodating less than four families.

3. Tax on infrastructure.— On and from the date of coming into force of this Act, a person who has constructed a multi-dwelling building shall, before grant of permission for occupation or use of

such building or part thereof, be liable to pay a tax at the rate of three per cent of the cost of construction of such building as infrastructure tax.

4. Assessment of cost of construction.— (1) For the purpose of section 3, the ‘cost of construction’ means the cost disclosed by a person while obtaining construction licence for such building from the local authority:

Provided that if the competent authority has reason to believe that such cost has not been properly disclosed, he may get the cost assessed by any registered valuer of the property recognised by the Income Tax Department or by any Government agency and the cost so assessed shall be deemed to be the cost of the building for the purposes of this Act.

(2) The fees payable to the valuer or Government agency for assessing the cost of construction under sub-section (1) shall be added to the tax due under this Act.

(3) Any person aggrieved by an assessment made by the competent authority under sub-section (1) may, within thirty days of communication of such assessment by the competent authority, prefer an appeal to the Administrative Tribunal whose decision thereon shall be final and binding on all parties.

(4) An appeal under sub-section (3) shall set out the grounds of appeal and shall be verified by the appellant. It shall accompany the order of the competent authority and its enclosures, if any. The appellant shall also pay a fee of rupees one thousand only in the form of court fees.

Assembly Hall,
Panaji,
7th December, 1997

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa.

LA/B/3212/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 11-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1997.

THE GOA SUPPLEMENTARY APPROPRIATION BILL, 1997

(Bill No. 34 of 1997)

A Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Goa for the services and purposes of the financial year 1997-98.

Be it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:—

1. Short title.— This Act may be called the Goa Supplementary Appropriation Act, 1997.

2. Issue of Rs. 1,00,39,000 out of the Consolidated Fund of the State of Goa for the financial year 1997-98.— From and out of the Consolidated Fund of the State of Goa, there may be paid and applied sums not exceeding those specified in column 5 of the Schedule amounting in the aggregate to the sum of one crore and thirty nine thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1997-98 in respect of the services and purposes specified in column 2 of the Schedule.

3. Appropriation.— The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Goa, by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said financial year.

THE SCHEDULE

(See Sections 2 & 3)

(Rs. in lakhs)

No. of Demand	Services and purposes	Sums not exceeding		
		Voted by Assembly	Charged on the Consolidated Fund of the State of Goa	Total
1	2	3	4	5
18.	Public Works	4.78	1.58	6.36
21.	Miscellaneous General Services	0.01	—	0.01
23.	Technical Education	—	34.59	34.59
26.	Medical and Public Health	—	6.64	6.64
28.	Water Supply and Sanitation	—	15.26	15.26
34.	Social Security and Welfare	17.00	—	17.00
37.	Agriculture	3.90	0.15	4.05
38.	Soil and Water Conservation	—	0.45	0.45
46.	Marketing and Quality Control	2.00	—	2.00
47.	Rural Employment	10.00	—	10.00
60.	Roads and Bridges	—	3.23	3.23
61.	Road Transport	—	0.80	0.80
Total		37.69	62.70	100.39

Financial Memorandum

Provision is made in the Bill to appropriate for certain services and purposes expressed in the Schedule during the financial year ending 31st March, 1998, a sum of Rs. 100.39 lakhs over and above the amounts granted for those services for the financial year 1997-98. The amount mentioned above consists of Rs. 33.06 lakhs on Revenue Account and Rs. 67.33 lakhs on Capital Account.

This Bill is introduced in pursuance of Article 205 (1) read with Article 204 of the Constitution of India to provide for the Supplementary Appropriation out of the Consolidated Fund of the State of Goa of the moneys required to meet the amount required on certain services during the financial year, 1997-98 in excess of the amounts granted for those services.

Panaji,
December, 1997

SHRI PRATAPSINGH RAOJI RANE
Chief Minister

LA/B/3213/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 10-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1997.

The Maharashtra Agricultural Produce Marketing (Regulation) (Third Goa Amendment) Bill, 1997

(Bill No. 35 of 1997)

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BILL

further to amend the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Maharashtra Act XX of 1964), as in force in the State of Goa.

Be it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:

1. *Short title and commencement.*—(1) This Act may be called the Maharashtra Agricultural Produce Marketing (Regulation) (Third Goa Amendment) Act, 1997.

(2) It shall be deemed to have come into force with effect from 30th October, 1997.

2. *Amendment of section 15-A.*—In section 15-A of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Maharashtra Act XX of 1964), as in force in the State of Goa (hereinafter called the “principal Act”), in sub-section (1), in clause (b), the figure and expression “, and elections shall be held within a period of one year from the date the Administrator assumes office” shall be omitted.

3. *Amendment of section 19.*—In section 19 of the principal Act, for the expression “from among its elected members”, the expression “from among its elected agriculturist members” shall be substituted.

4. Repeal and saving.—(1) The Maharashtra Agricultural Produce Marketing (Regulation) (Goa Amendment) Ordinance, 1997 (Ordinance No. 4 of 1997), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Statement of Objects and Reasons

An Ordinance, namely, the Maharashtra Agricultural Produce Marketing (Regulation) (Goa Amendment) Ordinance, 1997 (Ordinance No. 4 of 1997) has been promulgated by the Governor of Goa on 20-11-1997 so as to amend section 15-A(1) (b) of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Maharashtra Act XX of 1964), as extended to the State of Goa, thereby entailing the Administrator of the Goa Agricultural Produce Market Committee to manage the affairs of the Committee uninterruptedly.

Now, the above Ordinance is required to be replaced by a Bill.

Further, in terms of section 19 of the said Act, 1963, it is provided that the Chairman of the Committee shall be elected by the Committee from among its elected members. Since it is an agricultural produce market committee, it is found necessary to make a provision for an agriculturist to be the Chairman of the Committee. Therefore, it is proposed to amend section 19 of the said Act suitably.

This Bill seeks to achieve the above objects.

Financial Memorandum

The Bill does not have any financial implications.

Panaji,
1st December, 1997.

Somnath Zuwarkar
Minister for Cooperation

Assembly Hall,
Panaji,
1st December, 1997.

Ashok B. Ulman
Secretary to the Legislative
Assembly of Goa

(Annexure to Bill No. 35 of 1997)

The Maharashtra Agricultural Produce Marketing (Regulation)
(Third Goa Amendment) Bill, 1997

The Maharashtra Agricultural Produce Marketing (Regulation)
Act, 1963

(Maharashtra Act XX of 1964)

"15 A. Appointment of Administrator.—(1) Notwithstanding anything contained in sub-section (3) of section 15 or any other provisions of this Act, where the term of office of two years, three years or as the case may be, the extended terms of office, if any, under sub-section (3) of section 14 of the members of any Market Committee has expired, the State Government shall, by order in writing, direct that,—

(a) all members of the Committee shall, as from the date specified in the Order, cease to hold and vacate their office as members or otherwise; and

(b) the person appointed by the State Government from time to time, shall be the Administrator to manage the affairs of the Committee, during the period from the date specified in the Order upto the day on which the first meeting of the reconstituted Committee is held (hereinafter in this section referred to as the "said period"), and elections shall be held within a period of one year from the date the Administrator assumes office.

(2) During the said period, all the powers and duties of the Committee and its various authorities under this Act and the rules and bye-laws made thereunder or any other law for the time being in force shall be exercised and performed by the Administrator.

(3) The Administrator may delegate any of his powers and duties to any Officer for the time being serving under him or under the Committee.

(4) The Administrator shall receive such remuneration from the Market Fund as the State Government may, from time to time, by general or special order, determine."

19. Election of Chairman and Vice-Chairman.— Subject to the provisions of sub-section (2) of section 13, every Market Committee shall be presided over by a Chairman, who shall be elected by the Committee from among its elected members. The Committee shall also elect one of its elected members to be the Vice-Chairman.

Assembly Hall,
Panaji,
December, 1997.

ASHOK B ULMAN
Secretary to the
Legislative Assembly of Goa.

LA/B/3214/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 10-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1997.

The Goa Mundkars (Protection from Eviction) (Amendment) Bill, 1997.

(Bill No. 36 of 1997)

A

BILL

further to amend the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act No. 1 of 1976).

BE it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:

1. Short title and commencement.—(1) This Act may be called the Goa Mundkars (Protection from Eviction) (Amendment) Act, 1997.

(2) It shall be deemed to have come into force on the appointed date.

2. Amendment of section 29.—In sub-section (4) of section 29 of the Goa, Daman and Diu Mundkars (Protection

from Eviction) Act, 1975 (Act No. 1 of 1976), the following "Explanation" shall be added at the end, namely:—

"Explanation — The expression 'revenue village' includes villages in the municipal areas."

3. Repeal and saving.— (1) The Goa Mundkars (Protection from Eviction) (Amendment) Ordinance, 1997 (Ordinance No. 3 of 1997), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Statement of Objects and Reasons

The High Court at Bombay, Panaji Bench, Goa, in its judgement dated 17-2-1997, in Writ Petition No. 430 of 1992 has held that the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act 1 of 1976), is not applicable to the dwelling houses situated in urban areas, on the ground that the expression "revenue village" appearing in section 29 (4) of the Act, 1975, does not include municipal areas.

Since it was not the intention of the Legislature to exclude the dwelling houses situated in the urban areas from the purview of said section 29 (4) of the Act, 1975, an Ordinance, namely, the Goa Mundkars (Protection from Eviction) (Amendment) Ordinance, 1997 (Ordinance No. 3 of 1997) was promulgated by the Governor of Goa on 26-10-1997, so as to obviate the difficulties faced by the mundkars in the urban areas.

This Bill seeks to replace the said Ordinance.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji,
4th December, 1997

WILFRED MISQUITA
Minister for Revenue

Assembly Hall,
Panaji.
5th December, 1997.

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa.

(Annexure to Bill No. 36 of 1997)

The Goa Mundkars (Protection from Eviction) (Amendment) Bill, 1997

The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1995

(Act No. 1 of 1975)

Section 29. Register of Mundkars.— (1) In respect of every village, the Government shall cause a register of mundkars to be prepared and maintained in the prescribed manner:

(2) The register shall contain the following particulars, namely:—

- (a) the particulars and description of the dwelling house;
- (b) the location of the dwelling house;

(c) the name and address of the bhatkar; ;

(d) the name and address of the Mundkar;

(e) the nature and extent of service, rendered to the bhatkar or the amount of ground rent if any paid;

(f) the occupation of the mundkar;

(g) the rights referred to under section 6; and

(h) such other particulars as may be prescribed.

(3) The register shall be prepared and maintained by the Mamlatdar after such inquiry as may be prescribed.

(4) The Mamlatdar shall, before the preparation of the register, publish a notice, in every revenue village inviting applications from the mundkars for registration and to be presented before such date as may be specified in the notice or such further time as may be allowed by him:

Provided that if, at any time after the publication of the notice, it is found that a mundkar has failed to apply for registering his name the talathi within whose jurisdiction the dwelling house is situated, may after making such inquiry as he considers necessary, propose to the Mamlatdar to enter the name of such mundkar in the concerned register of mundkars and the Mamlatdar shall dispose of the same as provided under sub-section (5).

(5) On receipt of the application within the time specified in the notice or within such further time as may be allowed by him, the Mamlatdar shall, give notice to the bhatkar and any other person interested in the land in which the dwelling house is situate, calling upon them to file objections, if any, and requiring them to appear at a time and date specified in the notice for inquiry into the application.

(6) On the dates specified in the notice or on any other date to which the inquiry may be adjourned, the Mamlatdar shall hear such of the person who appear and after such inquiry as may be prescribed, register the mundkar or reject the application.

(7) The order of the Mamlatdar under sub-section (6) shall be served on the interested persons and shall also be published in the Notice boards of the village Office of the village in which the dwelling house is situate and also in the local newspapers.

(8) Any person aggrieved by the registration of a mundkar or by the refusal to register a person claiming to be a mundkar may, within sixty days from the date of registration or refusal, as the case may be, file an appeal to the Collector.

(9) On receipt of an appeal under sub-section (8) the Collector may call for the records of any proceeding under sub-section (6) and may make such inquiry or cause such inquiry to be made and may pass such orders thereon as he deems fit;

Provided that no order prejudicial to any person shall be passed without giving him a reasonable opportunity of being heard.

Assembly Hall.

Panaji

4th December, 1997

ASHOK B. ULMAN

Secretary to the

Legislative Assembly of Goa.

LA/B/3215/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 10-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1997.

The Goa Town and Country Planning (Amendment) Bill, 1997

(Bill No. 37 of 1997)

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BILL

further to amend the Goa, Daman and Diu Town and Country Planning Act, 1974.

BE it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa Town and Country Planning (Amendment) Act, 1997.

(2) It shall be deemed to have come into force with effect from 22-9-1997.

2. *Amendment of section 51.*—In section 51 of the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975),—

(i) in sub-section (1),—

- (a) for the expression “ten thousand rupees”, the expression “One lakh rupees” shall be substituted;
- (b) for the expression “five hundred rupees for every day”, the expression “ten thousand rupees for every day” shall be substituted;

(ii) in sub-section (2),—

- (a) for the expression “five thousand rupees”, the expression “ten thousand rupees” shall be substituted;
- (b) for the expression “two hundred and fifty”, the expression “five hundred” shall be substituted;

(iii) after sub-section (2), the following shall be inserted, namely:—

“(3) An offence under this section shall be cognizable.”.

3. *Repeal and saving.*—(1) The Goa Town and Country Planning (Amendment) Ordinance, 1997 (Ordinance No. 2 of 1997), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Statement of Objects and Reasons

The Goa Town and Country Planning (Amendment) Ordinance, 1997 (Ordinance No. 2 of 1997) was promulgated by the Governor of Goa on 22-9-1997 thereby amending sub-sections (1) and (2) of section 51 of the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975) so as to enhance the penalties as laid down in said section 51 and also inserting new sub-section (3) therein so as to make an offence under section 51 as cognizable.

This Bill seeks to replace the said Ordinance.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji,
4th December, 1997

PRATAPSINGH RANE
Chief Minister

Assembly Hall,
Panaji,
4th December, 1997

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa.

(Annexure to Bill No. 37 of 1997)

The Goa Town and Country Planning (Amendment) Bill, 1997

The Goa, Daman and Diu Town and Country Planning Act, 1974

(Act 21 of 1975)

51. *Penalty for unauthorised Development, etc.*—(1) Any person who, either by himself or at the instance of any other person, commences, undertakes or carries out development of, or changes the use of any land,—

- (a) in contravention of any Development Plan; or
- (b) without obtaining a certificate regarding development charge under section 43; or
- (c) without the permission as required under this Act; or
- (d) in contravention of any condition subject to which such permission has been granted; or
- (e) after the permission for development has been revoked under section 50; or
- (f) in contravention of the permission which has been modified under section 50,

shall be punishable with fine which may extend to ten thousand rupees and in the case of a continuing contravention with a further fine which may extend to five hundred rupees for every day during which such contravention is continued after conviction for the first such contravention.

(2) Any person who continues to use or allows the use of any land or building in contravention of the provisions of a Development Plan without having been allowed under section 42 or where the continuance of

such use has been allowed under that section, continues such use after the period for which the use has been allowed or without complying with the terms and conditions under which the continuance of such use is allowed, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing contravention with a further fine which may extend to two hundred and fifty rupees for every day during which such contravention is continued after conviction for the first such contravention.

Assembly Hall,
Panaji,
5th December, 1997

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa.

LA/B/3216/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 10-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1997.

The Goa (Institute Menezes Braganza) (Supplemental Provisions) Bill, 1997

(Bill No. 39 of 1997)

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BILL

to provide for supplemental provisions consequent to vesting of assets and liabilities of the Institute Vasco-da-Gama, now known as the Institute Menezes Braganza, in the Government, in pursuance of the Goa (Portaria Provincial No. 332 Dated 24th November, 1871) Repeal Act, 1997 (Act No. 15 of 1997).

BE it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:

1. *Short title and commencement.*— (1) This Act may be called the Goa (Institute Menezes Braganza) (Supplemental Provisions) Act, 1997.

(2) It shall be deemed to have come into force on the 17th day of April, 1997.

2. *The objects of this Act are to provide for—*

(a) dissolution of the Managing Committee, if any, of the Institute Vasco-da-Gama, now known as Institute Menezes Braganza (hereinafter referred to as the "said Institute");

(b) adjudication of claims, if any, and payment of compensation for any claims, from any person, who had prior to the 17th day of April, 1997 (hereinafter called as the "appointed day"), any interest in any of the assets of the said Institute;

(c) handing over of the assets, books of records and whatever properties of the said Institute, by a person

presently holding such properties or records in his custody;

(d) repeal of all laws and orders whichever in existence on the appointed day governing or in any manner concerning the affairs of the said Institute.

3. *Dissolution of Managing Committee.*— On and from the appointed day, the Managing Committee or any body or association of persons, whether duly constituted or not, which had any claim for managing the affairs of the said Institute by virtue of any provisions of law or otherwise, is hereby dissolved.

4. *Handing over of assets and records.*— (1) Any person who is in possession of any records or books of account or other documents or assets of the said Institute shall, within fifteen days from the date of a public notice issued by such officer of the Government as may be appointed for the purpose, hand over to such officer at the place named in such notice all records or books of account or other documents or assets of the said Institute which are in his possession.

(2) Any person contravening the provisions of sub-section (1) shall, on conviction, be punished with simple imprisonment of one month or with fine which may extend to ten thousand rupees or with both.

5. *Adjudication of claims and liabilities.*— (1) Any person who had any claim whatsoever to any property or other asset of the said Institute on the appointed day, may make an application to such officer as may be appointed by the Government (hereinafter called the 'adjudicating Officer'), for determination of his claim and the compensation payable therefor by the Government.

(2) Any person to whom any sum of money was due by the said Institute on the appointed day, may make an application to the adjudicating Officer referred to in sub-section (1) for settlement of his dues.

(3) The adjudicating Officer, on receipt of any application, either under sub-section (1) or sub-section (2) shall, after duly verifying the claim made by the applicant and after satisfying himself after such inquiry as he deems fit, that the person claiming had a right to make the claim, determine the amount payable by the Government as compensation to such person.

(4) Any person aggrieved by an order of the adjudicating Officer under this section, may appeal to the Administrative Tribunal constituted under the Goa Administrative Tribunal Act, 1965 (Act 6 of 1965) and the decision of the Administrative Tribunal in appeal shall be final and binding on the parties.

6. *Repeal.*— Any law or order or instrument having the force of law relating to or regulating the affairs of the said Institute, is hereby repealed.

7. *Effect of Act.*— The provisions of this Act shall be supplemental to and not in derogation of the provisions of the Goa (Portaria Provincial No. 332 dated 24th November, 1871) Repeal Act, 1997 (Act No. 15 of 1997).

Statement of Objects and Reasons

In terms of the Goa (Portaria Provincial No. 332, dated 24th November, 1871) Repeal Act, 1997 (Goa Act 15 of 1997), all assets and liabilities of the Institute Vasco-da-Gama, now known as Institute Menezes Braganza, stand vested in the Government and all persons in custody of the assets of the said Institute are required to hand over the same to such authority as may be specified by the Government.

However, it is deemed expedient to make provision for matters such as dissolution of the Managing Committee, if any, of the said Institute, adjudication of claims, if any, and payment of compensation for such claims, etc.

This Bill seeks to achieve the above objects.

Financial Memorandum

The Government will have to clear the liabilities of the Institute, if any, and also pay compensation, as adjudicated by the adjudicating Officer for claims, if any. The expenditure on this account cannot be assessed at this stage. However, a token provision of rupees one lakh will be provided initially.

Memorandum Regarding Delegated Legislation

Clause 4 of the Bill empowers the Government to appoint an Officer to issue a public notice for purpose of said clause 4.

Clause 5 of the Bill empowers the Government to appoint an adjudicating Officer for determination of claims and compensation payable therefor.

These delegations are of normal character.

Panaji,
December, 1997.

PRATAPSINGH RANE
Chief Minister

Assembly Hall,
Panaji,
5th December, 1997.

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa.

LA/B/3217/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 10-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1997.

The Goa Right to Information (Amendment) Bill, 1997

(Bill No. 40 of 1997)

A

BILL

to amend the provisions of the Goa Right to Information Act, 1997.

Be it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:

1. *Short title and commencement.*—(1) This Act may be called the Goa Right to Information (Amendment) Act, 1997.

(2) It shall come into force at once.

2. *Amendment of section 5.*—In section 5 of the Goa Right to Information Act, 1997 (Act 28 of 1997) (hereinafter called the 'principal Act'),—

(a) after clause (b), the following shall be inserted, namely:—

"(bb) papers containing advice, opinion, recommendations or minutes submitted to the Governor for discharge of his constitutional functions and any information, disclosure of which, would prejudicially affect the conduct of the Centre-State relations, including information exchanged in confidence between the Centre and the Government or any of their authorities or agencies.";

(b) in clause (d),—

(i) for the figure ":", the figure ":" shall be substituted;

(ii) the following provisos shall be inserted, namely:—

"Provided that the competent authority shall, before withholding information under this clause, refer the matter to the Legislature Secretariat for determination of the issue and act according to the advice tendered by that Secretariat:

Provided further that no appeal shall lie under section 6 against an order withholding supply of information under this clause:".

3. *Amendment of section 8.*—In section 8 of the principal Act, in sub-section (2), after the expression "within the time specified," the expression "or furnishes any information which is false in any material particulars and which he knows or has reasonable cause to believe to be false or does not believe it to be true," shall be inserted.

4. *Omission of sections 9 and 10.*—Sections 9 and 10 of the principal Act shall be omitted.

5. *Amendment of section 11.*—In section 11 of the principal Act, in sub-section (2), in clause (b), after item (iii), the following shall be inserted, namely:—

"(iv) non-official members not exceeding two other than those falling under item (iii) above."

Statement of Objects and Reasons

After passing of the Goa Right to Information Bill, 1997 (Bill No. 24 of 1997) by this August House, some doubts were expressed regarding disclosure of information relating to the correspondence exchanged between the Central and the State Government and also disclosure of information relating to advice, opinion, recommendations or minutes submitted to the Governor in discharge of his constitutional functions.

Similarly, it was felt that the power of the competent authority to withhold the information on the ground that the release of it would constitute a breach of privilege, either of the Parliament or the Legislative Assembly, should be made subject to the advice

of the Legislature Secretariat and no appeal should be provided against such an order as otherwise, the Tribunal may commit a breach of privilege by ordering disclosure of such information in appeal. The present Bill seeks to remedy the above situation.

The Bill also seeks to amend section 8 of the Goa Right to Information Act, 1997 (Act 28 of 1997) thereby bringing any person furnishing false information knowingly/or believing it not to be true, within the purview of penalty. Further, the Bill seeks to omit sections 9 and 10 of the Act, 1997, and amend section 11 thereof empowering the Government to appoint non-official members thereof not exceeding two.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji,
5th December, 1997

DOMNICK FERNANDES
Minister for Law

Assembly Hall,
Panaji,
7th December, 1997

ASHOK B. ULAMN
Secretary to the
Legislative Assembly of Goa.

(Annexure to Bill No. 40 of 1997)

The Goa Right to Information (Amendment) Bill, 1997

(Act No. 28 of 1997)

5. Restrictions on Right to Information.— The Competent Authority may, for reasons recorded in writing, withhold—

- (a) Information, the disclosure or contents of which will prejudicially affect the sovereignty and integrity of India or security of the State or Internationals relations or Public Order or administration of justice or Investigation of an offence or which leads to incitement to an offence;
- (b) Information relating to an individual or other information, the disclosure of which has no relationship to any activity of the Government or which will not sub-serve any public interest and would constitute a clear and unwarranted invasion of personal privacy;
- (c) Trade and commercial secrets or any other information protected by Law;
- (d) Information whose release would constitute a breach of Parliament or Legislative Assembly Privilege;
- (e) Information whose disclosure would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes or in public interest:

Provided that information which cannot be denied to the State Legislature shall not be denied to any person.

9. Offences.— (1) If any person responsible for furnishing information under this Act furnishes any information which is false in any material particulars and which he known or has reasonable cause to believe to be false or does not believe it to be true, he shall be punishable with fine which shall not be less than Rs. 100/- and which may extend to Rs. 500/-.

(2) Where a person obtains information under this Act for malafide purposes or publishes in any manner information, which he has reason

to believe to be false, shall be punishable with fine which shall not be less than Rupees one hundred and not more than Rupees five hundred.

10. Offences to be Cognizable.— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) every offence under this Act shall be cognizable.

11. State Council for Right to Information.— (1) The Government shall, by Notification in the Official Gazette, establish with effect from such day as specified in the Notification, a Council to be known as State Council for Right to Information.

(2) The State Council may consist of the following members—

(a) the Minister-in-Charge of the Department of Administrative Reforms in the Government who shall be its Chairman; and

“(b) (i) such other official Members not exceeding four;

(ii) two M.L.As to be nominated by the Speaker;

(iii) non-official Members not exceeding four representing journalists, Editors of Newspapers, News agencies Non-Government Organisation”;

(c) the time and place of the meeting of the Council shall be as the Chairman may decide and it shall observe such procedure as may be laid down by the council to transact its business.

(3) The object of the State Council shall be to promote right to information in the State and it shall deal with all matters related to right to information such as—

(a) review of the operation of the Act and rules made thereunder,

(b) review of the administrative arrangements and procedures to secure for citizens the fullest possible access to information.

(c) research and documentation as regards management of information, with a view to improve the extent and accuracy of information being made available under the Act, and

(d) to advise the Government on all matters related to right to information, including training, development and orientation of employees to bring in a culture of openness and transparency.

Assembly Hall,
Panaji,
7th December, 1997

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of G

LA/B/3218/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 11-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1997.

The Goa Legislative Diploma No. 2070 dated 15/4/1961 (Amendment) Bill, 1997

(Bill No. 41 of 1997)

A

BILL

further to amend the Legislative Diploma No. 2070 dated 15/4/1961, in its application to the State of Goa.

Be it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa Legislative Diploma No. 2070 dated 15/4/1961 (Amendment) Act, 1997.

(2) It shall be deemed to have come into force on the 1st day of December, 1997.

2. *Amendment of Article 25.*—In the Legislative Diploma No. 2070 dated 15/4/1961 (hereinafter referred to as the "principal Act"), in Article 25, in paragraph 1, for the figures and words "3,000 escudos" and "300 escudos", the words and figures "Rupees 500/-" and "Rupees 50/-" shall be respectively substituted, and after paragraph 1, the following Explanation shall be inserted, namely:—

"Explanation:—In the Code of Comunidades, wherever any amount is indicated in escudos, the same shall be calculated at the rate of six escudos per rupee."

3. In the principal Act, for the expression "Caixa Economica de Goa", wherever it occurs, the expression "Cooperative Banks" shall be substituted.

4. *Amendment of Article 34.*—In Article 34 of the principal Act, the words "or through their representatives" shall be omitted.

5. *Amendment of Article 39.*—In Article 39 of the principal Act, for the words "selected every three years", the words "elected every three years" shall be substituted.

6. *Amendment of Article 41.*—For Article 41 of the principal Act, the following shall be substituted, namely:—

"Article 41.—The board shall be elected by the Comunidade from amongst the able components, including share holders, preferably those residing in the village.

When the Comunidade is not constituted for election of any of the members of the board, the same shall be appointed by the Government from amongst the able components, including share holders, preferably those residing in the village."

7. *Amendment of Article 48.*—In Article 48 of the principal Act,—

(i) for the expression "of the attorney and his substitute and of the cashier and his substitute shall be composed of the president of the board, of the attorney and registrar, the former being the president of the committee", the expression "of the board shall be composed of the president of the board, the attorney and the registrar, the president of the board being the president of the committee" shall be substituted;

(ii) in paragraph 1, the words "or through their representatives and means of the declaration of vote of the absentees" shall be omitted;

(iii) after paragraph 2, the following paragraph shall be inserted, namely:—

"3. The election proceedings shall be supervised by the officer to be appointed by the District Collector, for the purpose."

8. *Amendment of Article 50.*—In Article 50 of the principal Act, for the expression "appointed or elected before the lapse of three years, except in justified cases", the expression "elected before the lapse of three years" shall be substituted.

9. *Amendment of Article 57.*—In Article 57 of the principal Act, for the expression "inferior to 30.000 escudos, the gratuity per meeting shall be of 18 escudos to the presidents and 9 escudos to every one of the remaining members of the board, with the exception of the registrar. And when the average income is higher than that amount, the gratuity shall be of 30 and 15 escudos respectively", the expression "inferior to Rs. 5000/-, the allowance per meeting shall be of Rs. 50/- to the presidents and Rs. 25/- to every one of the remaining members of the board, with the exception of the registrar, and when the average income is higher than that amount, the allowance shall be of Rs. 100/- and Rs. 50/- respectively" shall be substituted.

10. *Amendment of Article 88.*—In Article 88 of the principal Act,—

(i) in clause b), the following paragraph shall be inserted at the end, namely:—

"All the land dealings and transactions shall be kept open and shall be made available at least for ten years. Copies of such land dealings or any such important matters shall be sent to the Administrator of Comunidades, for maintaining duplicate copies in his office."

(ii) after paragraph 2, the following paragraph shall be inserted, namely:—

"3. All the documents and records of the Comunidades shall be under the custody of the registrar, who shall be responsible to the Administrator of Comunidades."

11. *Amendment of Article 118.*—In Article 118 of the principal Act, for the expression "on commission from amongst the persons of well known competence in the field of public administration, preferably administration of Comunidades", the expression "on deputation from amongst the Junior grade officers of Goa Civil Service" shall be substituted.

12. *Amendment of Article 334-A.*—In Article 334-A of the principal Act,—

(i) after the words "to any of the following categories or for purposes", the expression "except that the Co-operative Housing Societies of landless persons may be granted land not more than 800 sq. mts." shall be inserted;

(ii) in the last proviso, after the words "no person" and before the words "whose annual income", the words "or members of the Co-operative Housing Societies, as the case may be", shall be inserted.

13. *Amendment of Article 466.*—In Article 466 of the principal Act, after paragraph 3, the following paragraph shall be inserted, namely:—

"4. The final audit of the accounts of Comunidades having an annual income exceeding Rs. 5000/-, shall be done by a Chartered Accountant, every year."

14. *Repeal and Saving.*—(1) The Goa Legislative Diploma No. 2070 dated 15/4/1961 (Amendment) Ordinance, 1997 (Ordinance No. 5 of 1997) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any powers conferred by or under the said Ordinance, shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or taken.

Statement of Objects and Reasons

The Goa Legislative Diploma No. 2070 dated 15/4/1961 (Amendment) Ordinance, 1997 (Ordinance No. 5 of 1997) was promulgated by the Governor of Goa on the 1st day of December, 1997, thereby amending the Legislative Diploma No. 2070 dated 15/4/1961 (Code of Comunidades), generally based on the recommendations made by the House Committee. Broadly, the amendments relate to making provision for elections to the whole Managing Committee of the Comunidade, do away with voting by proxy, ensure maintenance of proper records, investment of Comunidade funds in the Co-op. Banks, Audit by Chartered Accountant in respect of certain Comunidades, provision for grant of maximum 800 sq. mts. of land to the Co-operative Housing Societies of landless persons without the formalities of auction and appointment of Junior Grade Officers of Goa Civil Service as the Administrators of Comunidades.

The amendments were proposed with a view to democratise the system and ensure proper control on the functioning of the Comunidades.

This Bill seeks to replace the said Ordinance.

Financial Memorandum

No financial implications are involved as far as the State Government is concerned.

Memorandum on Delegated Legislation

No delegated legislation is involved in this Bill.

Panaji,
4th December, 1997

WILFRED MISQUITA
Minister for Revenue

Assembly Hall,
Panaji,
9th December, 1997.

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa.

(Annexure to Bill No. 41 of 1997)

The Goa Legislative Diploma No. 2070 dated 15/4/1961 (Amendment) Bill, 1997

(Bill No. 41 of 1997)

The Goa Legislative Diploma No. 2070 dated 15/4/1961 (Amendment) Bill, 1997

Art. 25 - The "Jonos", the income of any nature of the deceased component and the dividends on shares registered and inscribed in the name of the author of a legacy, may be received by the house holder, on the order of the administrator passed in view of the certificate of the pending inventory.

\$1 - When the total income does not exceed 3,000 escudos, the parties interested in the legacy may draw it, producing a certificate issued by the registrar of the Comunidade, to the effect that the party had affixed public notices, through him, at the gate of the temple of any religion existing in the village, at the meeting place of the Comunidade and at the gate of respective Administration, and published in Govt.

Gazette, one of the copies being presented in anticipation to the Administrative board (Junta administrativa) in meeting and registered without anybody's opposition in the respective minute-book.

The publication in Govt. Gazette is dispensable when the amount to be received does not exceed 300 escudos.

\$2 - The authorization granted by the Administrator for the purpose of this Art shall be held good for the subsequent years and will subsist so long as the division in the inventory is not finally settled.

\$3 - There being claims, or when there is dispute pending over the legitimacy of the heirs, the "Jones", other income and dividends shall be kept in deposit in the treasury of the Comunidade, and the claim shall be attached to the case, it being not applicable to this case the prescription established in § 3 of Art. 21 and 22 of this Code.

\$4 - what is contained in this Art. and its \$ is applicable to the pensions referred to in Art. 202.

Art. 34 - The Comunidade may decide matters when 25 of its components with right to vote are present personally or through their representatives, in case of Comunidades having 100 components; 15 in case of those having more than 50 and less than 100; 9 in case of those having more than 25 and less than 50, and 5 in case of those having less than 25 components.

\$1 - However, the Comunidade may be considered as constituted and decide with a number of components inferior to the one fixed up in this Article, provided the components who are present represent more than one third of the invested capital.

\$2 - Excepting the case referred to in §1 of Art. 32, the president of the Administrative board shall not consider as constituted the Comunidade in case at least two thirds of the capital are not represented for the purpose of cases foreseen in this Code. The failure to do so will make him solidarity responsible for the loss that may come to the Comunidade on account of this irregular meeting, being null and void the decision or decisions taken.

Art. 39 - The affairs of the Comunidade are handled by administrative board selected every three years in the manner prescribed in this Code.

Art. 41 - The president of the board and his substitute shall be appointed by the Government from amongst the able components, preferably those residing in the village. In exceptional cases duly justified, persons strange to the Comunidade may be appointed for these posts. The attorney and his substitute shall be elected by the Comunidade from amongst the able components. The second member and his substitute shall be elected by twenty major and able components.

\$1 - When there are no twenty major components or when the Comunidade is exclusively composed of "Jonoeiros", the second member shall be appointed by the Government from amongst the able components.

\$2 - When the Comunidade is not constituted for the election of two members, the latter shall be appointed by the Government from amongst the able components, preferably those residing in the village, persons strange to the Comunidade may also be appointed, when recommended by the Administrator in duly justified cases.

Art. 48 - The committee for the election of the attorney and his substitute and of the cashier and his substitute shall be composed of the president of the board, of the attorney and registrar, the former being the president of the committee.

\$1 - Any of the elections shall be by open vote, each vote containing a name for the effective member and a name for his substitute. The voting shall be made by means of a list of the electors present personally

or through their representatives and means of the declaration of vote of the absentees.

\$2 - The election minutes shall be written by the registrar in the minute book of the Comunidade, mentioning therein all the facts occurred, registering protests if any and declaring finally the names of the persons elected who shall be proclaimed by the president in view of the counting of votes made by the election committee.

Art. 50 - Persons who have already served as members of the board shall not be appointed or elected before the lapse of three years, except in justified cases.

Art. 57 - In the Comunidades whose average income during the last nine years has been inferior to 30,000 escudos, the gratuity per meeting shall be of 18 escudos to the presidents and 9 escudos to every one of the remaining members of the board, with the exception of the registrar. And when the average income is higher than that amount, the gratuity shall be of 30 and 15 escudos respectively.

There shall not be more than 30 paid meetings per year, except in the case of three-yearly actions, in which the gratuity may go up to the total of 42 meetings.

1. The president of the board or one who functions as such, and the attorney and his substitute will also have right to respective gratuity when they take part in the meetings of the Comunidade. There shall not be more than 10 paid meetings per year. They will have no right to such gratuity when the meeting of the Comunidade and that of the board take place on the same day.

2. When the No. of meetings, whether of Comunidade or of the administrative board, exceeds the total No. fixed up, the amount of gratuity corresponding to this total no. shall be divided by the No. of meetings held.

3. No gratuity shall be paid when the meetings of the Comunidade or board are not held and only a mention of this fact is made.

4. In case, for the fault of the registrar, the minutes of the meeting is not written, the members of the board shall have right to gratuity which will be paid by the registrar by order of the Administrator.

Art. 88 (b) - It is the duty of the Registrar to maintain the records, if necessary at his residence, with the approval of the Administrator, when the Comunidade has no room to keep them.

Art. 118 - In each of the offices of the administration of the comunidades of Central Zone; Panaji, South respective Administrator shall be appointed by the Government on commission from amongst the persons of well-known competence in the field of public administration, preferably administration of comunidades.

Only - The Administrators of the comunidades may be transferred when such transfer, is convenient to the service.

Art. 327 - The properties adjoining to residential houses and those marginal to the roads, public ways, local ways or roads between villages and to the paddy fields cannot be leased for cultivation within a radius of 50 meters. They can however be leased as accesses to houses to a maximum width of 5 meters without an auction and with a lease proportional to the one previously fixed plus 50 per cent.

Art. 334 - All the property asked for in lease will be auctioned publicly without going against Article 327.

\$1 - The auction will be announced in the Government Gazette with antecedents of at least fifteen days.

\$2 - On the day fixed for auction, the administrator will determine that the calling of bids be made by the bailiff and once the bidding starts

and the final bid is reached, the adjudication of the plot will be done in terms of paragraphs that follow, the minutes being written.

\$3 - In case the adjudication is to a person different from the applicant, the former will indemnify the latter with double the costs.

\$4 - The bidder who offers the highest tax will deposit the amount equivalent to the tax of one year plus double the original deposit and only then the bidding can be taken as having ended.

\$5 - After the lease is granted, the amount of double the deposit will be handed over to the original applicant and the amount of the tax will be placed in the safe of the Comunidade, being given to the party in the first year of the contract.

\$6 - In case there are no bidders, the plot will be leased to the applicant for a tax fixed on the inspection.

Art. 334 - A. Notwithstanding anything contained in article 334, but subject to article 327, a Comunidade may, subject to such guidelines as the Government may, from time to time, issue, grant on lease not more than 10,000 sq. meters of land to educational societies for construction of playgrounds and not more than 400 sq. meters of land for construction of houses or buildings, without auction, to any of the following categories or for purposes:

- i) Public, Charitable or Religious Institutions;
- ii) for any scheme of providing housing to the economically weaker sections;
- iii) Small scale industrial purposes;
- iv) Government Departments or local bodies;
- v) Co-operative Housing Societies of Landless persons;
- vi) Government servants or employees of the Comunidades who are landless;
- vii) Landless Jonoeiros;
- viii) Landless Freedom Fighters.
- ix) Such other categories or purposes as may be notified by the Government, from time to time.

Provided that every notification issued under this clause shall be laid on as soon as may be, after it is issued before the Legislative Assembly.

Provided further that institutions of public utility and associations of professional bodies duly recognised by the Government may also be granted not more than 10,000 sq. meters of Comunidade land on lease for construction of houses or buildings, without auction.

Provided further that the educational societies, institutions of public utility, social organisations and associations of professional bodies duly recognised by the Government and have been granted Comunidade land under any other provisions of law or are in actual possessions of the land, shall be deemed to have granted the same under the provisions of this legislative Diploma, on payment of annual lease rent.

Provided further that the members of the Cooperative Housing Societies and the persons belonging to the categories (vi), (vii) and (viii) above are residing in Goa for preceding 15 years;

Provided also that no person whose annual income exceeds Rs. 1,25,000/- or such amount as may be prescribed by the Government shall be eligible for grant of land on lease without auction.

"Explanation 1.— For the purpose of this Article, the word "landless" means that either the person nor his or her spouse or minor child

owns a plot of land or house in the State of Goa. The word "house" shall also include a flat or apartment.

Explanation 2. For the purpose of this Article, the annual income of the person shall be construed to mean the annual income of the person and of his or her spouse or minor child". Same as above.

Art. 466 - At the end of every three months the registrar, after finding the sums of the amounts entered and issued, shall calculate the balance in a separate piece of paper and compare it with the balance in the cash-book and, along with the other key-keepers shall check the balance in the coffer and issue a certificate signed by all the key-keepers as regards the balance found in the coffer which will be sent to the administration during the first 8 days of the following month, failing which he shall pay a fine of 60 escudos.

1 - Similar fine shall be imposed by the administrator to the key-keeper who causes delay in sending it, by not being present at the checking of money in the coffer and does not justify the absence within 5 days.

2 - The sums forwarded for finding the balance shall refer to the page of the cash-book, and shall also indicate the serial number of the amounts entered and issued.

3 - Besides the three-monthly balance foreseen in this Art., monthly balance-sheets may be asked for by the higher authorities and prepared in accordance with the instructions issued by the Directorate of Civil Administration.

Panaji
10th December, 1997

ASHOK B ULMAN
Secretary to the
Legislative Assembly of Goa

LA/B/3241/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 12-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 15th December, 1997.

The Goa Ground Water Regulation Bill, 1997

(Bill No. 38 of 1997)

A

Bill

to regulate and to control the ground water source and the matters connected therewith.

Be it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:

1. Short title, extent and commencement.—(1) This Act may be called The Goa Ground Water Regulation Act, 1997.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless the context otherwise requires,—

(a) "Act" means the Goa Ground Water Regulation Act, 1997;

(b) "Authority" means Ground Water Authority, established in accordance with section - 3 of the Act;

(c) "ground water" means the water which exists below the surface of the ground at any particular location;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "sink" with all its grammatical variations and cognate expression in relation to a well includes any digging, drilling or boring of new wells or deepening carried to the existing wells;

(f) "source of water" means the water which exist in the nallas, wells, rivulets, rivers, lakes, ponds, borewells, tube wells, canals etc.;

(g) "user of ground water" means the person or persons or an institution including a company or an establishment, whether Government or not who or which own or use or draw ground water for any purpose including domestic and agricultural use made either on a personal or community basis;

(h) "well" means a well sunk for the search or extraction of ground water by person or persons except by the authorised officials of the State or Central Governments for carrying out scientific investigations, exploration, development or management work for the survey and assessment of groundwater resources or for providing water for irrigation and includes open well, dug well, borewell, tank, pond, dug-cum-borewell, tubewell, filter point, collector well and infiltration gallery.

3. Establishment of a Ground Water Authority.— (1) The State Government shall, by notification in the Official Gazette, establish with effect from such date as may be specified in the Notification, an authority to be known as Ground Water Authority.

(2) The Ground Water Authority shall consist of:—

- (a) i) Development Commissioner — Chairman.
- ii) Chief Engineer of Irrigation or his nominee.
- iii) Chief Town Planner or his nominee.
- iv) Chief Engineer, P.W.D. or his nominee from (PHE).
- v) Joint Secretary (STE).
- vi) Director of Mines or his nominee.
- vii) Director of Agriculture or his nominee.
- viii) Hydrogeologist as Member Secretary.

(b) Not more than three Members who, in the opinion of the Government have special knowledge or practical experience in matters relating to ground water, to be appointed by the Government;

(3) The term of office and the manner of filling the vacancies and other conditions of service of the Chairman and other Members shall be such as may be prescribed.

4. Staff of the Ground Water Authority.—(1) In order to enable Ground Water Authority to properly function or exercise the powers under the Act, State Government may depute such number of technical personnel and other staff as it may consider necessary.

5. Grant of permission to extract and use ground water.—(1) Any user of ground water (as defined under section 2, sub-section (g) desiring to sink a well for any purpose either on personal or community basis, shall apply to the Authority for grant of a permission for this purpose, and shall not proceed with any activity connected with such sinking unless a permission has been granted by the Ground Water Authority:

Provided that the user will not have to obtain a permission if the well is used for domestic and agricultural purpose subject to the condition that (a) the distance between the well proposed to be sunk and the existing source of water is not less than 50 mtrs. and/or (b) that the water is drawn by the pump of not exceeding the capacity of 5 H.P.:

It is further provided that the said user of ground water shall formally inform in writing to the authority of its intention of sinking the well, for agriculture and domestic use.

(2) No application shall be entertained from any person or user of ground water other than the Government for the purpose of transporting the water either for sale or otherwise by means of vehicle or pipeline without the permission of the authority.

(3) Every application under sub-section (1) and (2) shall be made in such form, shall contain such particulars and in such manner as may be prescribed.

(4) On receipt of an application under sub-section (2) if the Ground Water Authority is satisfied that it shall not be against public interest to do so, it may grant a permission subject to such conditions and restrictions and collection of such charges as may be prescribed, the permission authorizing the extraction and use of the water:

Provided that no person shall be refused a permission unless he has been given an opportunity of being heard.

(5) the decision regarding the grant or refusal of the permission shall be intimated by the Authority to the applicant within a period of 45 days from the receipt of the application.

(6) In granting or refusing a permit under sub-section (4), the Ground Water Authority shall have regard to:—

- (a) the purpose or purposes for which water is to be used;
- (b) the existence of other competitive users;
- (c) the availability of water;
- (d) quality of ground water with reference to use;

(e) spacing of groundwater structures keeping in consideration the purpose for which water is to be used;

(f) long term ground water level behaviour;

(g) any other factor relevant thereto;

(h) quantity of ground water withdrawal and hours of operation per day.

(7) The permission shall be in such form as may be prescribed but shall not be issued for a period exceeding five years at time.

6. Registration of existing users.—(1) Every existing user of ground water in the State shall within a period of sixty days from the date of establishment of Ground Water Authority by State apply to the Ground Water Authority for the grant of a certificate

of registration recognising its existing use in such form and in such manner as may be prescribed:

Provided that the Authority may entertain any such application after the expiry of the said period of sixty days, if it is satisfied that the user was prevented by sufficient cause from filing of application in time.

(2) The details to be furnished in an application under sub-section (1) shall include the following namely:—

- i) the description of the source of water, such as type of wells, its exact location;
- ii) the lifting device used;
- iii) the quantity of ground water withdrawal and hours of operation per day;
- iv) the total period of use in each year;
- v) the purpose or purposes for which ground water is being extracted;
- vi) in case of irrigation well, the location and extent of area irrigated;
- vii) in the case of State, Municipal or community run water supply schemes, the details of the services involved in addition to the quantities of water extracted, the diversion or the pumping points and their locations.

(3) On receipt of an application under sub-section (1), if the Ground Water Authority is satisfied that it shall not be against the public interest to do so, it may grant, subject to such conditions and restrictions and collection of such charges as may be specified, a certificate of registration authorising the continued use of the water:

Provided that no person shall be refused a certificate of registration unless he has been given an opportunity of being heard.

(4) The decision regarding the grant or refusal of the certificate of registration shall be intimated by the Authority to the applicant within a period of forty-five days from the receipt of the application.

(5) In granting or refusing a permission under sub-section (3) the Ground Water Authority shall have regard to:—

- (a) the purpose or purposes for which water is to be used;
- (b) the existence of other competitive users;
- (c) the availability of water;
- (d) quality of ground water with reference to use;
- (e) spacing of ground water structures keeping in consideration the purpose for which water is to be used;
- (f) long term ground water level behaviour;
- (g) any other factor relevant thereto;
- (h) the quantity of ground water withdrawal and hours of operation per day.

(6) No certificate of registration shall be refused to the user of ground water for using the water either for agriculture or/and domestic purpose fulfilling the requirements of proviso to sub-section (1) of section 5.

(7) The certificate of registration shall be in such form as may be prescribed.

(8) The certificate of registration shall be valid for maximum period of 5 years from date of issue except the user of ground water for domestic and/or agriculture purpose.

(9) Pending the communication by the Ground Water Authority of the decision on an application under sub-section (1), every existing user of ground water shall be entitled to the continued use of the ground water in the same manner and to the same quantity as he was entitled prior to the date of his application.

(10) If a registered well becomes defunct, this fact should be immediately brought to the notice of the Authority by the user of ground water.

7. Power to alter, amend or vary the terms of the Permission.—At any time after a permission or certificate of registration, as the case may be, has been granted the Ground Water Authority may, for technical reasons, alter, amend or vary the terms of the permission or certificate of registration, as the case may be, provided the user of ground water has been given an opportunity of being heard.

8. Cancellation of permission/certificate of registration.—If the Authority is satisfied either on a reference made to it in this behalf or otherwise, that:—

- (a) the permission or certificate of registration granted, under sub-section (4) of Section 5 or sub-section (3) of Section 6, as the case may be, is not based on facts.
- (b) the holder of the permission or certificate of registration has without reasonable cause failed to comply with the conditions subject to which the permission or

certificate of registration has been granted or has contravened any of the provisions of this Act or the rules made thereunder, or

(c) a situation has arisen which warrants limiting of the use or extraction of ground water, then without prejudice to any other penalty to which the holder of the permission or of the certificate of registration may be liable under this Act, the Ground Water Authority may after giving the holder of the permission or of the certificate of registration, an opportunity to show cause, cancel the permission, certificate of registration as the case may be.

9. Powers of the Ground Water Authority.—(1) The Authority or any person authorised by it in writing in this behalf, shall have following powers:—

- (a) to enter on any property (private or Government) with the right to investigate and make any measurements concerning the land or the water located on the surface or the underground;
- (b) to inspect the well which has been or is being sunk and the soils and other materials excavated therefrom;
- (c) to take specimens of such soils or other materials or of water extracted from such wells;
- (d) to require by order in writing the persons sinking a well to keep and preserve in the prescribed manner specimens of soils or any material excavated therefrom for such period not exceeding three months from the date of completion or abandonment of the work as may be specified by the Ground Water Authority and thereupon such person shall comply with such requisition.
- (e) to inspect and to take copies of the relevant record or documents and ask any question necessary for obtaining any information (including diameter or depth of the well which is being or has been sunk; the level at which the water is or was struck and subsequently restored/rested, the types of strata encountered in the sinking of the well and the quality of the water struck) required for carrying out the purposes of this Act;

(f) to require the user of ground water to install water measuring device on any water supplies when necessary to properly administer the water or where there is reason to believe that the user does not comply with the provisions contained in this Act or any other sufficient reason for defending the public interest;

Provided that where the user of ground water does not comply with the requisition issued to him within a period of thirty days, the Authority itself may install such water measuring device and recover the cost from the defaulting user of ground water;

(g) to seize and keep custody of any equipment/device utilised for illegal sinking and destroy the work executed fully or partly;

(h) to require any user of ground water, who does not comply with the provisions of this Act and rules framed

thereunder, to close down any water supply or destroy any hydraulic work found to be illegal according to the provisions of this Act and the rules framed thereunder:

Provided that where the user of ground water does not comply with the requisition issued to him within a period of thirty days, the Authority itself may carry out the necessary work and recover the cost from the illegal user of ground water.

(i) to enter and search with such assistance, if any, as it considers necessary, any place in which it has reason to believe that offence under this Act has been or is being committed and order in writing the person who has been or is committing the offence not to extract or use the groundwater for a specified period;

(j) to exercise such other powers as may be necessary for carrying out the purposes of this Act or any rules made thereunder.

(2) The power conferred by this section includes the power to break open the door of any premise where sinking, extraction and use of ground water may be going on:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuse to open the door on being called to do so.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under Section 93 of the said Code.

10. *Service of Orders, etc.*—(1) Every order under clause (d) of sub-section (1) of section 9 shall be served—

(a) by giving or tendering the order of notice or by sending it by post to the user for whom it is intended; or

(b) if such user cannot be found, by affixing the order of notice on some conspicuous part of his last known abode or place of business or by giving or tendering the order of notice to some adult male member or servant or his family or by causing it to be affixed on some conspicuous part of the land or building in which the well is being sunk.

(2) Where the person on whom the order or a notice is to be served is a minor, service upon his guardian in the manner provided in sub-section (1) shall be deemed to be served upon the minor.

11. *Delegation of Powers and Duties.*—The Authority may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in its order be exercised or discharged also by any employee of the Authority specified in this behalf in the order.

12. *Use of Fund.*—(1) The Authority shall transfer 50% of the charges so collected under Section 5 and 6 of the Act, to the

concerned Village Panchayats/Municipalities in whose jurisdiction the well falls in respect of which the Authority has collected the charges.

(2) Balance of 50% of the charges shall be used by the Authority for the purpose of undertaking the scheme to conserve the ground water level.

13. *Members and employees of the Ground Water Authority to be public servants.*—All Members and employees of the Authority shall when acting or purporting to act in pursuance of the provisions of this Act or of any rules made thereunder be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

14. *Protection against action taken in good faith.*—No prosecution, suit or other legal proceeding shall be instituted against the Government, the Authority or any other officer of the Government or any member or other employees of the Authority for anything done or intended to be done in good faith under this Act, or the rules made thereunder.

15. *Offences and penalties.*—

A. *For Non Receipt of Information*

If any user—

(a) contravenes or fails to comply with any of the provisions of this Act or any rule made thereunder in supplying informations as prescribed, or

(b) obstructs the Authority or any other person authorised by it to exercise any of the powers under this Act, he shall be punishable—

(i) for the first offence with fine which may extend to rupees one thousand; and

(ii) for the second and subsequent offence, with fine which may extend to rupees two thousand.

B. *For illegal Sinking/Construction and/or Use of Wells.*

If any user—

(a) contravenes or fails to comply with any of the provisions of this Act or any rule made thereunder;

(b) obstructs the Authority or any other person authorised by it to exercise any of the powers under this Act:

he shall be punishable—

(i) for the first offence with fine which may extend to rupees five thousand; and

(ii) for the second and subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to rupees ten thousand.

16. *Compounding of offences.*—Any offence under this Act has been or after the institution of the proceedings be compounded by the Ground Water Authority, as prescribed.

17. *Offences by Companies.*—(1) Whenever an offence under this Act has been committed by a company, every person

who at the time the offence is committed was in charge of, or was responsible to the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation:— For the purpose of this section—

(a) “Company” means any body corporate and includes a firm or other association or individuals, and

(b) “Director”, in relation to a firm, means a partner in the firm.

18. *Appeals.*— (1) Any person aggrieved by a decision or action of the Authority under this Act may, within a period of thirty days from the date on which the action is taken or the decision is communicated to him and on payment of such fees as may be prescribed, prefer such an appeal to such authority as may be specified by the State Government:

Provided that appellate authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

19. *Power to make Rules.*— (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:—

(a) the term of office and manner of filling vacancies and other conditions of service among the Members and Chairman of the Authority;

(b) the functions and the terms and conditions of service of the employees of the Authority;

(c) the form of application under sub-section (3) of Section 5 and the particulars that may be furnished with these applications;

(d) the form of application under Section 6;

(e) the form of the permit and certificate of registration under sub-section (7) of Section 5 and sub-section (7) of Section 6;

(f) the manner in which the specimens of soils or other material shall be kept and preserved under clause (d) of sub-section (1) of Section 9;

(g) specifying the appellate authority under sub-section (1) of Section 18 and the fees to accompany the application for appeal;

(h) the rate of charges for drawing ground water under section 5 (4) and section 6 (3);

(i) any other matter which is to be or may be prescribed.

Panaji

SADANAND UTTAM MALIK

2nd December, 1997.

M. L. A.

Assembly Hall,

ASHOK B. ULMAN

Panaji,

Secretary to the

4th December, 1997

Legislative Assembly of Goa.

Statement of Objects and Reasons

It is found that there has been tremendous exploitation of ground water in Goa. Water in huge quantity is being transported duly extracted from the wells, in the form of trade/business, as a result the existing wells or the source of water in the surrounding areas are affected. This ultimately leads to affecting the ground level water in the State. Due to the affect of ground water level, the seasonal crops and other agricultural produce in the several areas are also affected. As time and again Dr. Jhalmi, Leader of Opposition has been raising this issue on the floor of the House and the Government has been sharing its concern. The proposed bill seeks to regulate the control and development of groundwater level without affecting the use of water for human consumption as well as agricultural use.

This Bill seeks to achieve the above object.

Financial Memorandum

There are no financial implications involved.

Panaji-Goa.

SADANAND UTTAM MALIK

Dated: 2nd December, 1997.

M. L. A.

LA/B/3242/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 12-12-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 15th December, 1997.

The Goa Public Men's Corruption (Investigations and Inquiries) (Amendment) Bill, 1997

(Bill No. 42 of 1997)

A

BILL

to amend the Goa Public Men's Corruption (Investigations and Inquiries) Act, 1988, (Act 7 of 1991).

Be it enacted by the Legislative Assembly of Goa in the Forty-eight Year of the Republic of India as follows:-

1. Short title and commencement.—(1) This Act may be called the Goa Public Men's Corruption (Investigations and Inquiries) (Amendment) Act, 1997.

(2) It shall come into force at once.

2. Amendment of section 2.—In section 2 of the Goa Public Men's Corruption (Investigations and Inquiries) (Amendment) Act, 1998 (Goa Act 7 of 1991) (hereinafter referred to as the "principal Act"), in clause (i), after sub-clause (x), for figure ":", the figure and word ";" or" shall be substituted and thereafter, the following shall be inserted, namely:—

"(xi) any Government servant or employee of any corporation, statutory body or Board owned or controlled by the Government".

3. Amendment of section 3.—In section 3 of the principal Act.—

(i) after heading, for the words whoever being a "public men", the expression "For the purpose of this section, the corruption shall include and denote a public man whoever"— shall be substituted.

(ii) in clause (g), the expression "by obtaining any monetary gain for himself or for his family;" shall be deleted.

(iii) after clause (g), the following expression shall be omitted, namely "is said to commit corruption."

4. Amendment of section 9.—In section 9 of the principal Act, in sub-section (2), for the expression "the notice of the Government", the expression "the notice of the Government or group of any four Members of Legislative Assembly of the State or Members of Parliament of the State" shall be substituted.

5. Amendment of section 12.—In section 12 of the principal Act, —

(i) after sub-section (1), the following shall be inserted, namely—

"(1A) without prejudice to the generality of the provisions contained in sub-section (1), the Commission may, for the purposes aforesaid, may requisition aid of the police as required and in such cases, every officer of police shall be bound to render such assistance as may be required by the Commission for carrying out investigation under the direct supervision of the Commission.

Provided that all police officers above the rank of sub-Inspector shall not be on deputation to the Commission for a period exceeding 3 years:

"Throughout his service in the police force".

Statement of Objects and Reasons

The "Public men" as provided in the act does not include the Government servants, or the statutory body etc. Hence it is proposed to cover the same in the definition. Section 9 empowers the Government to refer the complaint received if any, to the Commiss-

sion for its necessary investigation. The proposed amendment seeks to empower a group of any four members of the Goa Legislative Assembly or the Members of parliament from Goa to refer such complaints to the Commission as well, since the members are also responsible to the Assembly and Governance. This will also enable for the swift reference to the Commission. Section 12 proposes to avail the assistance of the police in carrying out with the necessary investigation.

This Bill therefore seeks to achieve the above object.

Financial Memorandum

No financial implication are involved in this Bill.

Panaji-Goa
8th December, 1997

MANOHAR PARRIKAR
M.L.A.

Assembly Hall
8th December, 1997

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa

(Annexure to Bill No. 42 of 1997)

The Goa Public Men's Corruption (Investigations and Inquiries) Bill, 1997

The Goa Public Men's Corruption (Investigations and Inquiries) Act, 1988 (Act No. 7 of 1991)

2. Definition.—In this Act, unless the context otherwise requires:—

(a) "Commission" means a Commission constituted under section 4;

(b) "complaint" means a complaint alleging that a public man has committed corruption;

(c) "competent authority" in relation to a public man means,—

(i) in the case of Chief Minister or a Member of the State Legislature, the Governor acting in his discretion;

(ii) in the case of Minister, the Chief Minister;

(iii) in the case of any other public man, such authority as may be prescribed;

(d) "family" of a public man means the spouse and such parents, unmarried sisters and children of the public man as are dependent on him;

(e) "Governor" means the Governor of Goa;

(f) "local authority" means a Municipal Corporation or a Municipal Council or a Planning Development Authority or a Township Committee or a Panchayat;

(g) "member" means a member of the Commission;

(h) "political party" means a political party or group which has representation in Parliament or in the Legislative

Assembly; or a political party which is treated as a recognised political party in accordance with paragraph 6 of Election Symbols (Reservation and Allotment) Order, 1968;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "public man" means a person who holds or has held in the State, the Office of—

(i) a Minister or the Chief Minister of the State of Goa; or

(ii) a member of the Legislative Assembly of the State of Goa; or

(iii) the President or the Vice-President or the Chairman or the Vice-Chairman or the Secretary/, or the Managing Director (by whatever name called) of—

(A) a local authority; or

(B) a Government company as defined in section 617 of the companies Act, 1956 (central Act I of 1956); or

(C) a statutory body or corporation or Board established by or under a statute and owned or controlled by the Government of Goa; including a co-operative society; or

(D) any other corporation or Board or Society owned or controlled by the Government of Goa; or

(iv) a member of a local authority or the Syndicate or Executive Committee of a University established by the Goa University Act, 1984 (Act 7 of 1984) or a member or Director (by whatever name called) of a body or corporation or Board or Society referred to in item (C) and item (D) of sub-clause (iii); or

(v) a member of the State Transport Authority or any Regional Transport Authority; or

(vi) the President, Secretary or Treasurer or any other office bearer of a registered trade union; or

(vii) the Chairman or Vice-Chairman or President or Vice-President or Secretary or Treasurer or any other office bearer of a political party at the District or State level; or

(viii) the Chairman or Manager or Secretary or Correspondent having control over the administration of a Private School, whether under individual or Corporate management, which receives or has received aid or grant from the Government under the Goa, Daman and Diu School Education Act, 1984 (Act 5 of 1984) and the rules made thereunder; or

(ix) the Chairman or Manager or Secretary or Correspondent having control over the Administration of a Private College whether under a unitary or corporate management which is affiliated to a University in the State of Goa and which received aid or grant from the Government; or

(x) the Chairman or Manager or Secretary or Correspondent having control over the administration of a Private Engineering College or Private Polytechnic whether under a unitary or corporate management, affiliated to a University in the State of Goa or State Board of Technical Examination, Goa as the case may be.

Explanation:— In this clause—

(a) "co-operative society" means a co-operative registered or deemed to have been registered under the Maharashtra Co-operative Societies Act, 1960 as in force in the State of Goa;

(b) "society" means a society registered in the State under the Societies Registration Act, 1860 (Central Act 21 of 1860);

(c) "registered trade union" means a trade union registered under the Trade Union Act, 1926 (Central Act 16 of 1926);

(d) "public servant" means a public servant as defined in section 21 of the Indian Penal Code (Central Act 45 of 1860);

(e) "State" means the State of Goa;

3. *Definition of corruption.*— Whoever being a public man—

(a) accept or obtain from any person for himself or for any other person, any gratification whatsoever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering any service or disservice to any person, with the Government or any Board, authority, body, corporation, Company or Society referred to in sub-clauses (iii), (iv) and (v) of clause (j) of section 2 or with any public man or public servant as such; or

(b) accepts or obtains from any person for himself or for any other person, any gratification whatsoever as a motive or reward for inducing, by corrupt or illegal means or by the exercise of personal influence, any public man or public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public man or public servant, to show favour or disfavour to any person, with the Government or any Board, authority, body, corporation, company or Society referred to in sub-clauses (iii), (iv), (v) and (vi) of clause (j) of section 2 or with any public man or public servant as such; or

(c) by corrupt or illegal means or by otherwise abusing his position as a public man obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(d) abusing his position as a public man wilfully does any act in contravention of any provision of any law for the time being in force intending to show undue favour or cause injury to any person; or

(e) accepts or obtains for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public man or having any connection with the official functions of himself or of any public servant or from any person whom he knows to be interested in or related to the person so concerned; or

(f) himself, or any member of his family or any other person on his behalf is in possession, or has at any time during the

period of his office, been in possession, for which the public man cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income; or

(g) abusing his position as a public man shows any act of favouritism or nepotism in the discharge of his official functions by obtaining any monetary gain for himself or for his family; is said to commit corruption.

Explanation I.— This word “gratification” means pecuniary gratification and gratification estimable in money.

Explanation II.— The word “law” includes any Ordinance, bye-law, rule, regulation or notification.

Explanation III.— The words “legal remuneration” are not restricted to remuneration which a public man can lawfully demand, but includes all remuneration which is lawfully permissible.

Explanation IV.— A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within the expression “a motive or reward for doing”.

9. *Matters which may be investigated by Commission*— (I) Subject to the provisions of this Act, the commission may investigate any complaint presented to it under section 11.

(2) Notwithstanding anything contained in this Act, where any allegation of corruption against any public man comes to the knowledge or is brought to the notice of the Government, they may, if satisfied that it is necessary in the public interest so to do, by order in writing refer such allegation of corruption to the Commission for investigation and the Commission shall investigate the same as if it were a complaint presented under this Act.

(3) For the purposes of this Act, the person who made the allegation of corruption referred to in sub-section (2) shall be deemed to be the complainants.

12. *Preliminary investigation*.— (1) On receipt of a complaint under section 11, the Commission shall, in a case not falling under section 10, scrutinise the same and shall furnish a copy of the complaint to the public man and also give the complainant mind the public man concerned an opportunity of being heard in the matter.

(2) The Commission may make such order as to the safe custody of documents relevant to the investigation as it deems fit.

(3) The procedure for conducting any such investigation shall be such as the Commission deems appropriate in the circumstances of the case.